

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKUSDC SDNY
DOCUMENT
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DOC #:
DATE FILED: May 2, 2018

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 ROBERTO ROBRENO, EARON
 BRATHWAITE, and RICARDO BARCENAS,
 on behalf of themselves and others similarly
 situated,

Plaintiffs,

-v-

17-cv-9361 (KBF)

EATALY AMERICA, INC., EATALY USA LLC,
 EATALY NY LLC d/b/a EATALY NYC
 FLATIRON, EATALY NY FIDI, INC. d/b/a
 EATALY NYC DOWNTOWN, NICOLA
 FARINETTI, ADAM SAPER, and ALEX
 SAPER,

Defendants.

ORDER

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 KATHERINE B. FORREST, District Judge:

On January 5, 2018, plaintiffs Roberto Robreno (“Robreno”), Earon Brathwaite (“Brathwaite”), and Ricardo Barcenas (“Barcenas”) (collectively, “plaintiffs”), on behalf of themselves and others similarly situated, filed an Amended Complaint against defendants Eataly America, Inc. and associated parties (collectively, “Eataly” or “defendants”). (ECF No. 36.) Subsequent to filing the Amended Complaint, plaintiffs’ counsel filed four “Consent to Sue” notices in an apparent attempt to add additional named plaintiffs to this action.¹ (See ECF Nos. 50-53.)

Although there is currently a fully briefed 216(b) motion pending before the Court (ECF No. 54), the Court has not yet certified a class in this action. Further,

¹ Those putative plaintiffs are Catalina Vazquez, Maria Ceras, Andre Davis, and Ahmed Ndiaye.

plaintiffs have not sought leave to file a Second Amended Complaint formally adding the putative plaintiffs identified in the “Consent to Sue” letters.

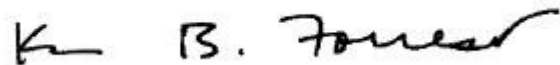
Accordingly, there is absolutely no basis at this point in time for those putative plaintiffs to be added as parties to this action or listed on the docket. Allowing plaintiffs to add additional parties via “Consent to Sue” letters not only circumvents rules regarding the timing of amended complaints, but also restrictions on class actions.

The Court hereby directs the Clerk of Court to STRIKE the “Consent to Sue” letters at ECF Nos. 50, 51, 52, and 53. The persons identified in those letters are not parties to this action at this time, and therefore should be removed from the docket. If the Court does certify a 216(b) class, plaintiffs may seek leave to refile those consent to sue letters as appropriate.

Defendants are directed to inform the Court not later than **Monday, May 7, 2018** whether, in light of this Order, additional briefing is necessary on the pending 216(b) motion. The Court will revise its estimate regarding a decision and 216(b) notification dates as necessary.

SO ORDERED.

Dated: New York, New York
May 2, 2018

A handwritten signature in black ink, appearing to read "K. B. Forrest", is written over a horizontal line.

KATHERINE B. FORREST
United States District Judge